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in criminal jurisprudence, is the most valuable. A short history of criminal procedure is given, from the days of the ordeal through the duel at law, and torture down to the present jury system. This system he attacks with bitterness and irrefutable arguments. He advocates a school for criminal judges who will thus become experts, and points out that the hearing of civil causes necessarily unfits a man for work on the criminal side.

The author ridicules the idea of making the gravity of a crime depend upon the amount of premeditation and suggests that a better criterion is to be found in the nature of the passions and tastes which have impelled the criminal to the act. He further maintains that as an abortive attempt to commit crime has shown the malefactor to be a menace to society he should receive the same punishment as if the attempt had been successful, and that coöperation in crime should be considered an aggravating circumstance. A lengthy chapter is devoted to penalties, the author favoring a period of imprisonment to be followed by release on parole. Of course he assumes that this means an intelligent supervision of the convict. It may in Europe, but it certainly does not in this country.

Perhaps the most startling chapter is the last, which is devoted to the death penalty. His argument in favor of it and of its extension is excellent, as are the reasons given for substituting some more humane form of punishment in place of hanging or decapitation.

To sum up, the work is a distinct and valuable contribution to the science of criminal law. Mr. Howell is to be praised for his painstaking and interesting translation.

*J. E. Corrigan.*

A TREATISE ON THE LAW OF IRRIGATION AND WATER RIGHTS AND THE ARID REGION DOCTRINE OF APPROPRIATION OF WATERS. By CLESSON S. KINNEY. Second Edition, revised and enlarged to October 1, 1912. San Francisco: BENDER MOSS COMPANY. 1912. Vol. I, pp. xxxii, 1-1097; Vol. II, pp. xxviii, 1098-2194; Vol. III, pp. xxv, 2195-3146; Vol. IV, pp. xxi, 3147-4558.

At the time of the publication of the first edition of this work in 1894, it was at once recognized as an important contribution to the literature of the subject. Since 1894 the development of the law of irrigation and water rights in the arid and semi-arid states has been so rapid and important, that, as well stated by the author in his preface, no apology is needed for a new edition, which is practically a new work. In the period mentioned, irrigation district laws have become firmly established; State control of waters has developed; the Carey Act and the National Reclamation Act have appeared; and thousands of cases have been decided by the courts settling many hitherto disputed points, and presenting many new phases of this important subject. This new work must take its deserved place as leader among text-book authorities on its subject.

In the limited space of a review, little more can be done than indicate the scope of a work of this magnitude. The four volumes are divided into twelve parts, the titles of which are as follows: Part I, Economic Questions Relating to Irrigation and Waters; Part II, Ancient and Modern Irrigation; Part III, Classification, Definition and the Nature of Waters; Part IV, Rights of the Public in Waters and Water Courses; Part V, Acquisition and Disposal of Lands and Waters by the United States; Part VI, The Common Law Governing

Waters; Part VII, The Civil Law Governing Waters; Part VIII, The Appropriation of Waters for Beneficial Uses; Part IX, The Nature, Extent and Character of Rights Acquired to Water by Appropriation, Rights of Way and the Pollution of Waters; Part X, Subterranean Waters and Rights Acquired Thereto; Part XI, International, Interstate, Federal, State, District and Municipal Control; Part XII, Control by Private Water Companies; Part XIII, Adjudication and Protection of Rights—Injuries to Rights and Remedies Therefor; Part XIV, Special Features and Statutory Laws of the Arid and Semi-Arid States.

Parts I to VII inclusive are evidently intended as an exhaustive introduction to the main topic—the law of waters in the arid and semi-arid States, which is the appropriation doctrine with all of its ramifications. Part XIV, comprising all of Volume IV, is in the nature of an annotated appendix reviewing and criticising as it does the laws of the arid and semi-arid States and dependencies. A table of cases cited, covering 281 pages, and an index of 601 pages, carefully edited, gives a hint of the thoroughness of the author's study of his subject.

We welcome particularly Part X, discussing subterranean waters, and Part XII, discussing control by private water companies. In Part X the author makes an interesting classification of subterranean waters, based on their physical characteristics. His main chapters are "Subterranean Water Courses", "Artesian Waters" and "Percolating Waters". This classification, with its subdivisions, is obviously of great assistance in the study of this difficult topic, as the reasoning of any particular case must of necessity be limited in its application to the physical situation presented by such case. We have nowhere hitherto found a more scientific or suggestive discussion of this topic. Part XII (Control by Private Water Companies) is illuminating, both because of the treatment of the subject, and because the fact of its review of some of the various systems in force is suggestive for the future development of water projects by private capital.

The arrangement as a whole is good and a great aid to the use of the work, and the mechanical features are a credit to the publishers.

*H. Alexander Smith.*